THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, 27th day of December, 2006

W.P.No.2918 of 2003

Between:

M. Surya Prakash Rao & others … Petitioners

and

The State of Andhra Pradesh,
Irrigation Department, Secretariat,
Hyderabad, rep. by the Secretary
and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.2918 of 2003

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the Order dated 28-1-2003 passed by the 2nd respondent-District Collector, Krishna at Machilipatnam as arbitrary, illegal and violative of Article 14 of the Constitution of India.

On the application of the petitioners for installation of a new pipeline 6" dia for supply of water to their fields, the 2nd respondent-District Collector has passed an Order in D.Dis.5799/2001, dated 16-1-2002. The said Order was passed after obtaining technical opinion to instal new pipeline. Subsequently, some representations were filed by neighbouring villagers and as such, further enquiry was conducted. On the ground that if the earlier order is implemented, there will be a law and order problem; as such, further orders were passed by cancelling the earlier order dated 16-1-2002. At the time of admission of Writ Petition, this Court has suspended the impugned Order by an Order dated 18-2-2003 and further directed to give protection for implementation of the Order dated 16-1-2002. Thereafter, a vacate petition was filed. After hearing both the parties, the interim order was made absolute on 23-6-2004.

The petitioners have asserted in the affidavit filed in support of the Writ Petition that no notice of any kind has been issued before cancelling the earlier order dated 16-1-2002 by an Order dated 28-1-

2003. The said averment is not denied by the respondents in their counter affidavits.

In the circumstances, the impugned Order dated 28-1-2003 passed by the 2nd respondent-District Collector is in gross violation of principles of natural justice. In view of the same, the impugned Order is liable to be set aside and is accordingly set aside. However, if there is any necessity for reconsideration of the Order dated 16-1-2002, it is always open for the 2nd respondent to issue proper notice to the petitioners and pass orders afresh after hearing them.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

27-12-2006

prk